

NOTICE OF INTENT

Department of Environmental Quality
Office of Air Quality and Radiation Protection
Air Quality Division

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division regulations, LAC 33:III.1109 (Log #AQ166).

Acts 276 and 1275 of the 1997 Regular Session of the Louisiana Legislature provide for local governments to enact ordinances to require, prohibit, or regulate the destruction, disposal, or burning of trash, leaves, limbs, and branches. The basis and rationale for this rule are to mirror requirements on open burning as provided for in Acts 276 and 1275 of the 1997 Regular Legislative Session.

This proposed rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

A public hearing will be held on January 26, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ166. Such comments must be received no later than February 2, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. You may contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ166.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen
Assistant Secretary

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 11. Control of Emissions of Smoke

§1109. Control of Air Pollution from Outdoor Burning

* * *

[See Prior Text in A]

B. Outdoor Burning Prohibited. No person shall cause or allow the outdoor burning of waste material or other combustible material on any property owned by him or under his control except as provided in ~~LAC 33:III.1109~~ Subsections C below and D of this Section.

C. Statutory Exceptions. The following activities are not subject to the prohibition created in Subsection B of this Section:

1. the burning of leaves, grass, twigs, branches, and vines by a private property owner on his own property for noncommercial purposes in parishes with a population of 300,000 or less, provided the property owner attends the burning of yard waste at all times. This exception shall not apply in the parish of East Baton Rouge;

2. the burning of trees, brush, grass, or other vegetable matter in any parish having a population of 90,000 or less, provided the location of the burning is not within the territorial limits of a city or town or adjacent to a city or town in such proximity that the ambient air of the city or town will be affected by smoke from the burning;

3. the burning of trees, branches, limbs, or other wood as a bonfire that is specifically authorized by ordinance in the parishes of St. James, St. John the Baptist, or St. Charles;

4. the burning of agricultural by-products in the fields in connection with the planting, harvesting, or processing of agricultural products;

5. the controlled burning of cotton gin agricultural wastes in connection with cotton gin operations;

6. the controlled burning in connection with timber stand management; and

7. the controlled burning of pastureland or marshland in connection with trapping or livestock production.

~~ED.~~ Exceptions to Prohibition Against Outdoor Burning. Outdoor burning of waste material or other combustible material may be conducted in the situations enumerated below if no public nuisance is or will be created and if the burning is not prohibited by and is conducted in compliance with other applicable laws and with regulations and orders of governmental entities having jurisdiction, including air control regulations and orders. The authority to conduct outdoor burning under this regulation does not exempt or excuse the person responsible from the consequences of or the damages or injuries resulting from the burning;

1. ~~Outdoor burning in connection with the preparation of food;~~
2. ~~Campfires and fires used solely for recreational purposes or for ceremonial occasions;~~
3. ~~Fires purposely set to forest lands for a specific forest management purpose in accordance with practices acceptable to the Louisiana Forestry Commission;~~
4. ~~Fires purposely set on agricultural lands for a specific management purpose in accordance with practices acceptable to the Louisiana Department of Agriculture;~~
5. ~~Outdoor burning in a rural park or rural recreation area of trees, brush, grass, and other vegetable matter for game management purposes in accordance with practices acceptable to Louisiana Parks and Recreation Commission and Louisiana Wildlife and Fisheries Commission;~~

~~64.~~ ~~S~~small fires, by tradesmen and contractors, in such activities as street repair, installation or repair of sewer, water, electric, telephone mains, and services;

~~75.~~ ~~T~~he operation of contrivances using open flames such as welding torches, blow torches, portable heaters, and other flame making devices;

~~86.~~ ~~O~~utdoor burning, in other than rural park or rural recreation area, of trees, brush, grass, and other vegetable matter from such area in land clearing and right-of-way maintenance operations if the following conditions are met:

- a. prevailing winds at the time of the burning must be away from any city or town, the ambient air of which may be affected by smoke from the burning;
- b. the location of the burning must be at least 1,000 feet (305 meters) from any dwelling other than a dwelling or structure located on the property on which the burning is conducted;
- c. care must be used to minimize the amount of dirt on the material being burned;

d. heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any materials other than plant growth which produce unreasonable amounts of smoke may not be burned; nor may these substances be used to start a fire;

e. the burning may be conducted only between the hours of 8 a.m. and 5 p.m. Piles of combustible material should be of such size to allow complete reduction in this time interval; and

f. the burning must be controlled so that a traffic hazard as prohibited by ~~LAC 33:III.1109.D~~ Subsection E of this Section is not created;:

97. Fire purposely set as a part of an organized program of drills for the training of fire fighting personnel or for testing fire fighting materials or equipment if the following conditions are met:

a. the duration of the burning held to the minimum required for such purposes;

b. the burning is conducted only between the hours of 8 a.m. and 5 p.m.;
and

c. the burning is controlled so that a traffic hazard as prohibited by ~~LAC 33:III.1109.D~~ Subsection E of this Section is not created;:

108. Outdoor burning of waste hydrocarbon products (from petroleum exploration, development or production operations, natural gas processing, such as, but not limited to, basic sediments, oil produced in testing an oil well, and paraffin) may be conducted at the site of origin when it is not practicable to transport the waste products for sale or reclamation, or to dispose of them lawfully in some other manner. In addition, hydrocarbons spilled or lost from pipeline breaks or other transport failure which cannot practicably be recovered or be disposed of lawfully in some other manner may be outdoor burned at the site where the spill occurred or at another appropriate place due to safety considerations. Except when the immediate or continuous burning of hydrocarbon spills is reasonably necessary to abate or eliminate an existing or imminent threat of injury to human life or significant damage to property, the outdoor burning shall be conducted under the following conditions:

a. the location of the burning must not be within or adjacent to a city or town or in such proximity thereto that the ambient air of the city or town may be affected by smoke from the burning;

b. the burning is conducted only between the hours of 8 a.m. and 5 p.m.;
and

c. the burning is controlled so that a traffic hazard as prohibited by ~~LAC 33:III.1109.D~~ Subsection E of this Section is not created; and

~~119. Special Situations Approvable for Exemption by the Administrative Authority Prior to Initiation of Burning Operation;~~ as follows:

a. outdoor burning of explosives, pyrophoric, or any other materials where there is no practicable or safe method of disposal;

b. experimental burning for purposes of data gathering and research; and

c. nonrecurring unusual circumstances or any condition not covered above.

~~DE. Traffic Hazards Prohibited.~~ The emission of smoke, suspended particulate matter or uncombined water or any air contaminants or combinations thereof which passes onto or across a public road and creates a traffic hazard by impairment of visibility, as defined in LAC 33:III.111, or intensifies an existing traffic hazard condition is prohibited.

~~EE. Exclusion from Application of this Section.~~ Outdoor burning pursuant to and in compliance with the terms of a variance granted by the administrative authority is excluded from the application of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1081 (October 1995), LR